

INEE Thematic Issue Brief: Human Rights

Definitions

Human rights are a means to a life in dignity. They are universal and inalienable; they cannot be given, nor can they be taken away. In an emergency context, key human rights such as non-discrimination, protection and the right to life take immediate priority. Other rights may be subject to progressive realization based on available resources. As education is instrumental to protection, non-discrimination and survival, it must be seen as a key human right.

International Human Rights Law (HRL) is the body of international legal treaties and normative standards that govern states' obligations to respect, protect and fulfil human rights at all times, including during emergencies. During conflict, international humanitarian and criminal law also apply. These treaties and standards regulate hostilities, protect civilians and place duties on actors who may challenge, supplant or act on behalf of the state. Refugee law sets out government obligations towards persons displaced across international boundaries due to the fear of persecution or armed conflict. Under HRL, it is the State that has the duty to respect, protect and fulfill the rights of any individual within its territory or sphere of influence under HRL, and it does so through its constitution, national laws, policies, budget allocations and the ratification of international human rights treaties, while maintaining a system of accountability, the rule of law and access to justice. The relationship between **rights-holder** (individual) and **duty-bearer** (State) is the most important in human rights. Other states and the international community have a right and duty to assist or intervene if a State cannot or will not live up to its obligations.

Human Rights as a Thematic Issue

Human rights in emergencies are the same as human rights at all times and in all situations; they do not disappear, cannot be diluted, or put on hold. However, it may be necessary to prioritise in the early stages of an emergency and recognise the need for a progressive realisation of rights, since challenges to secure rights do grow in emergencies and the risks of their violation multiply. It is equally important to remember how emergencies create ruptures that may also help to further embed a long-term culture of rule of law. Emergencies, for all their adversity, may thus also serve as windows of opportunity.

The right to education is a human right and an end in itself, ensuring humans can reach their full potential and claim their other rights. Education offers protection and structure in times of instability, aiding children and those most vulnerable to retain a normal life and build the best foundations for a better future. Education is not only about access, but also about quality, for if children do not learn anything, then enrolment rates have little meaning. The key provision is non-discrimination and access to basic education, which must be fulfilled at all times. Other parts of education, such as secondary and tertiary education, may be subject to a more progressive realisation.

The meaning and content of the right to education may be described by using a simple four-part illustration, applicable as standards for all times, ensuring that education is of the highest quality:

- **Availability:** duty-bearers must ensure free and compulsory good quality education available for all children up to a defined age minimum, with safe schools and appropriate infrastructure and facilities, especially trained teachers.
- **Accessibility:** duty-bearers must eliminate any discrimination on the basis of internationally prohibited grounds: ethnicity, economic status, disability, gender etc; education must be free and physically accessible, protected from attacks.
- **Acceptability:** duty-bearers must ensure that education is acceptable to children, parents and teachers, with relevant content and methods, respecting everyone's rights; utmost attention must be paid to the needs of minorities and indigenous.

- **Adaptability:** duty-bearers must ensure that education is adaptable to the child's specific situation and ability; emergencies create enhanced vulnerability to disability and maiming, and the reality of displacement, for month and years.

These four provisions apply equally in times of peace as in war, conflict, and disasters. They are reflected in human rights law, they challenge inequalities and abuse, teach citizenship, shared values, peace and reconciliation, and their achievement defines a process as well as an end.

Addressing Human Rights in the INEE Minimum Standards

Examples of how human rights are mainstreamed throughout the INEE Minimum Standards Handbook include the following

- **Foundational Standards** emphasise a human rights based approach to reduce discrimination and create a shared understanding that education must be accessible, adaptable and acceptable. These standards emphasise the right of community members to participate, in a non-discriminatory manner, in educational planning, coordination and implementation without relieving the key duty-bearers, the State, of their responsibility. The category also emphasises the need to address human rights issues in assessments, response, monitoring and evaluation of education initiatives, measuring all data against normative standards, constitutional provisions and legal commitments, at both national and international level.
- **Access and Learning Environment Domain** highlights key points from various international legal instruments and frameworks underscoring human rights including the right to education and protection in emergencies.
- **Teaching and Learning Domain** focuses on ensuring the rights of learners are upheld and addressed through curricula, instruction and assessment, while also highlighting the need to include human rights education and education for peace and citizenship in formal and non-formal settings.
- **Teachers and Other Education Personnel Domain** stresses the importance of non-discrimination in the recruitment and selection of teachers, and maintains that codes of conduct and conditions of work must be based on international human rights standards, and uphold the rights of teachers and other personnel at all times.
- **Education Policy Domain** further recognises that ultimate responsibility for fulfilling the right to education rests with the State, and that it is the State that must create and uphold laws, regulations and policies, in line with international standards, that recognise this right at all times. The category also emphasises the duty of the State to ensure rights-holders are empowered to understand their rights and how these may be claimed.

Additional Guidance

Disasters and conflict are both subject to HRL. During conflict, however, **International Humanitarian Law** (IHL) applies as well, underpinning HRL, regulating hostilities, protecting civilians, and placing duties on those actors who may challenge, supplant or act on behalf of the State. IHL is therefore between individuals as well as between the State and the individual, and violations of IHL may be war crimes carrying criminal responsibility. **Refugee law** is a third body of law, regulating the duties of host-states, camp authorities, the international community and humanitarian actors in the safeguard and care of populations displaced over national borders. Internally displaced people (IDPs) must be afforded the same protection as everyone else under IHL and HRL.

To know, and at all times act in accordance with, international law is the responsibility of States, humanitarian actors and others who temporarily take on the role of duty-bearer. Providing

adequate and up-to-date human rights education to these key actors is therefore of utmost importance.